

EXHIBIT E

EXHIBIT E

1 E. LEIF REID
Nevada Bar No. 5750
2 LReid@LRRC.com
JOSH M. REID
3 Nevada Bar No. 7497
JReid@LRRC.com
4 JOEL D. HENRIOD
Nevada Bar No. 8492
5 JHenriod@LRRC.com
LEWIS ROCA ROTHGERBER CHRISTIE LLP
6 3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
7 Telephone: (702) 949-8200
Facsimile: (702) 949-8398
8
SVEND A. BRANDT-ERICHSEN
9 Admitted Pro Hac Vice
SBrandterichsen@nossaman.com
10 NOSSAMAN LLP
719 Second Avenue
11 Suite 1200
Seattle, WA 98104
12 Telephone: (206) 395-7630
13 *Attorneys for Intervenor*
Ioneer USA Corporation

14
15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA

17 CENTER FOR BIOLOGICAL DIVERSITY,
18
19 Plaintiff,
20 vs.
21 UNITED STATES BUREAU OF LAND
MANAGEMENT,
22 Defendant.
23 IONEER USA CORPORATION,
24 Intervenor.

Case No.: 2:19-cv-01915-GMN-EJY

**DECLARATION OF KRISTIN
KUYPER IN SUPPORT OF
INTERVENOR'S OPPOSITION TO
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

25 I, KRISTIN KUYPER, declare:

26 1. I am over 18 years of age and have never been convicted of a crime involving fraud
27 or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness,
28 could and would testify competently thereto.

1 2. I am currently employed as a Senior Environmental Specialist and the Biology
2 Program Manager with EM Strategies, Inc. ("EM"). In my professional capacity I manage and
3 conduct baseline surveys for BLM sensitive species and other rare plants and wildlife.

4 3. I have worked as a Biology Consultant for over 20 years, and I hold a Bachelor's
5 degree in Wildlife Biology from Colorado State University and a Master's Degree in Resources
6 Management from the University of Nevada, Reno. My Master's thesis was a study of a rare
7 buckwheat and resulted in a publication in *The Great Basin Naturalist*. The research approach for
8 my thesis was very similar to our research on Tiehm's buckwheat at Rhyolite Ridge. In my
9 professional capacity I have given presentations to the Nevada Native Plant Society and the Nevada
10 Rare Plant Workshop.

11 4. EM was hired by Ioneer on December 30, 2017 in order to conduct comprehensive
12 baseline studies of Tiehm's buckwheat in relation to the proposed development of a lithium and
13 boron quarry located on land administered by the United States Bureau of Land Management
14 ("BLM") in Esmeralda County, Nevada, commonly referred to as the Rhyolite Ridge Lithium-
15 Boron Project ("RRLBP"), and I have been the project manager for the baseline biology survey
16 since December 30, 2017.

17 5. EM's work has included a comprehensive characterization of the extent, makeup,
18 and distribution of Tiehm's buckwheat through multi-seasonal baseline studies, acting as a resource
19 for Ioneer's geologic consultants to identify Tiehm's buckwheat, and the development of a
20 protection plan with voluntary measures that could be implemented by Ioneer to minimize impacts
21 to Tiehm's buckwheat as a result of activities associated with the RRLBP.

22 6. These efforts have included extensive field surveys, aerial drone surveys, soil
23 analyses, seed collection and testing, and statistical analysis of collected data to establish baseline
24 conditions for the demographics and densities of the known Tiehm's buckwheat sub-populations
25 and a method for monitoring trends over time.

26 7. Ioneer has been aware of the Tiehm's buckwheat population located within the
27 potential RRLBP project area, and Ioneer has made, and will continue to make considerable efforts,
28 to ensure that all of Ioneer's exploration activities avoid direct impacts to Tiehm's buckwheat.

1 Ioneer has also indicated that future development plans of the RRLBP would minimize impacts to
2 Tiehm's buckwheat in compliance with federal laws and regulations.

3 8. In 2018, Ioneer developed a Habitat Study Model to identify potential habitat for
4 Tiehm's buckwheat within a ten-mile radius of the potential RRLBP project area utilizing ArcGIS
5 and remote sensing data. Initial statistics indicated that soil units and geologic units were the best
6 predictors of the presence or absence of Tiehm's buckwheat based on known sub-populations and
7 areas that were identified as likely habitat by prior surveys for the plant.

8 9. Ioneer is developing a protection plan for Tiehm's buckwheat, incorporating the
9 findings from the baseline field studies completed at the site as well as findings from other endemic
10 buckwheat protection efforts within the State.

11 10. As part of this protection plan, several voluntary protection measures have already
12 been initiated, including: seed collection and banking; propagation of seedlings; the establishment
13 of permanent transects to measure trends in Tiehm's buckwheat populations and to evaluate their
14 stability over time, genetic analyses; and development of a Habitat Study Model that aids in
15 directing Ioneer's biological specialists on where searches for new plant populations might be most
16 productive.

17 11. Ioneer has gone to great lengths to avoid any potential impacts to Tiehm's buckwheat
18 during their exploration activities, and I have no knowledge of any Tiehm's buckwheat plant being
19 physically impacted by Ioneer's exploration activities.

20 12. Ioneer is conducting exploration activities in two separate exploration project areas.
21 There are no known Tiehm's buckwheat in the Rhyolite Ridge Exploration Area, and all known
22 sub-populations of the plant exist in and around the South Infill Exploration Area.

23 13. Ioneer's geological consultants have access to the data from our baseline studies that
24 identify the locations of all known Tiehm's buckwheat sub-populations. In addition, Ioneer's
25 geological consultants have used me as a resource to determine whether plants found in the field
26 were Tiehm's buckwheat plants.

27 14. My involvement has also included assisting Ioneer and its geological consultants in
28 coordinating with the BLM on their March 18, 2019, Biological Resource Conditions for a bulk

1 material excavation in the South Infill Exploration Area. This bulk material excavation was near a
2 known Tiehm's buckwheat sub-population, and the conditions were developed to ensure that no
3 Tiehm's buckwheat plant would be physically impacted.

4 15. There are nine known sub-populations of Tiehm's buckwheat. The reproduction and
5 seed dispersal of Tiehm's buckwheat have not been studied, but buckwheats in general are sexual
6 reproducers and insects are the most common pollinators. The primary seed dispersal agents are
7 gravity, wind, and water. The mobility of these pollination and dispersal agents makes it unlikely
8 that surface disturbance between the sub-populations prevents exchange between them.

9 16. The plant occurs on discrete patches of light-colored soil. None of the 'island' sub-
10 populations have been physically connected since the time they were first discovered.

11 17. The trenches from exploration activities conducted 80-40 years ago have been
12 colonized by Tiehm's buckwheat.

13 18. I have reviewed the Declaration of Patrick Donnelly, which was submitted as an
14 Exhibit to Plaintiff's Motion for a Preliminary Injunction. While Attachment A states that it is a
15 "[p]hotograph of road bladed into population 4 & 5," the presence of the shrubs in the photograph
16 clearly show that this is not Tiehm's buckwheat habitat, and no Tiehm's buckwheat were impacted
17 by this disturbance. Attachment B was taken in the same area as Attachment A, and it is not in
18 Tiehm's buckwheat habitat. While Attachment C states that it shows a "[n]ewly bladed pad in
19 population 6," this photo was not taken in sub-population 6, and the shrubs in the photograph are
20 not indicative of Tiehm's buckwheat habitat. Attachment D shows the same road pictured in
21 Attachments A and B, and it was not taken within sub-populations 4 and 5. In addition, *halogeton*
22 is not a state-listed noxious weed. It is present throughout the area, but it is not prevalent in sub-
23 populations 4 and 5. In Attachment E, the shrubs in the photograph are not indicative of Tiehm's
24 buckwheat habitat. In Attachment F, the photo shows vegetation that is obviously not Tiehm's
25 buckwheat habitat, and the plant would not disperse and establish in this area.

26 ///

27 ///

28 ///

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
2 and correct.

3 Executed on December 2, 2019.

4 
Kristin Kuyper

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Lewis Roca
ROTHGERBER CHRISTIE